

Gloria L. Franklin
Clerk of Court

E-filing

San Francisco Bankruptcy Court
235 Pine St.
P.O. Box 73410
San Francisco, CA 94120-7341

(415) 268-2300

Richard W. Wieking, Clerk
United States District Court
450 Golden Gate Avenue
San Francisco, CA 94102-3489

FILED
MAR 12 AM 10:43
1401 JSW
WIKING
DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FILED

MAR - 7 2008

UNITED STATES BANKRUPTCY COURT
SAN FRANCISCO, CA

001

001

001

001

JSW

Re: *Ramin Yeganeh*
05-30047 TC Judge Thomas E. Carlson

Re: *Charles E. Sims v Advanta Trust*
05-3243 TC Judge Thomas E. Carlson

Dear Mr. Wieking:

[X] Enclosed please find a conformed copy of the notice of appeal, election to district court document to form the record on appeal, a certified copy of the docket and order being appealed for assignment to a district court judge.

Please acknowledge receipt of this appeal by stamping the district court case number on a copy of this letter and return it to *United States Bankruptcy Court, San Francisco Division*.

Gloria L. Franklin, Clerk
United States Bankruptcy Court

Dated: March 7, 2008

By: ANNA CHO-WONG
Deputy Clerk Anna Cho-Wong

1 WILLIAM E. GILG
2 Attorney at Law, #151991
3 305 San Bruno Avenue West
4 San Bruno, CA 94066
(650) 871-8647
(650) 873-3168 (fax)

5 Attorney for Defendants/Appellants

FILED

MAR 6 2008

UNITED STATES BANKRUPTCY COURT
SAN FRANCISCO, CA

E-filing

6
7
8 UNITED STATES BANKRUPTCY COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10 **CV 08 1401**

11 In re RAMIN YEGANEH,

) Case No. 05-30047 TEC

12
13 Debtor.

)
) Chapter 7

14 CHARLES E. SIMS, Trustee,

) Adversary Proceeding No. 05-3243

15
16 Plaintiff,

)
)

17
18 vs.

) NOTICE OF APPEAL

19 FRAN YEGANEH, ET AL,

) [Rules of Bankruptcy Procedure,
) Rule 8001(a), (b)],

20
21 Defendants.

)
)

22
23 The defendants in the above-entitled matter hereby appeal under Title 28 of the
24 United States Code, section 158(a), (b) from the Order denying "Defendants' cross
25 motion for summary judgment" entered by this Bankruptcy Court on February 28, 2008
26 in this bankruptcy proceeding.
27
28

102
JSW

1 The names of all parties to this Order appealed from and the names, addresses,
2 and telephone numbers of their respective attorneys are as follows:


3
4
5 1. Charles E. Sims, Trustee, represented by

6 Charles P. Maher, Esq.
7 Jeffrey Fillerup, Esq.
8 Luce, Forward, Hamilton & Scrips, LLP
9 121 Spear St., Suite 200
10 San Francisco, CA 94105
11 (415) 356-4600

12
13
14 2. Defendants Fran Yeganeh, et al, represented by

15 William E. Gilg
16 Attorney at Law
17 305 San Bruno Avenue West
18 San Bruno, CA 94066
19 (650) 871-8647

20
21
22 March 6, 2008

23
24
25
26
27
28


WILLIAM E. GILG,
Attorney for Defendants/Appellants

PROOF OF SERVICE

I, the undersigned, state that I am a citizen of the United States and employed in the City of San Bruno, that I am over the age of eighteen (18) years and not a party to the within cause; that I am an active member of the State Bar of California; that my business address is 305 San Bruno Avenue West, San Bruno, California; and that on the date set out below I deposited a true copy of the attached documents, listed below, on the parties to the action by one or more of the following methods:

☒ First Class Mail

☐ Fax via (415) 356-4610

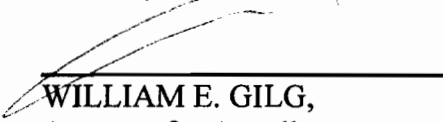
– by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at San Bruno, California;

Documents Served: NOTICE OF APPEAL

Party Served: CHARLES P. MAHER, ESQ.
Luce, Forward, Hamilton & Scripps, LLP
Rincon Center II, 121 Spear St., Suite 200
San Francisco, CA 94105

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.

Executed at San Bruno, California on March 6, 2008.



WILLIAM E. GILG,
Attorney for Appellants

1 WILLIAM E. GILG
2 Attorney at Law, #151991
3 305 San Bruno Avenue West
4 San Bruno, CA 94066
5 (650) 871-8647
6 (650) 873-3168 (fax)

7 Attorney for Defendants/Appellants

FILED
MAR 6 2008
UNITED STATES BANKRUPTCY COURT
SAN FRANCISCO, CA
ECF - Exempt

8 UNITED STATES BANKRUPTCY COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10

11 In re RAMIN YEGANEH,) Case No. 05-30047 TEC
12)
13 Debtor.) Chapter 7
14)
15 CHARLES E. SIMS, Trustee,) Adversary Proceeding No. 05-3243
16)
17 Plaintiff,) ELECTION TO APPEAL
18) DIRECTLY TO DISTRICT
19 vs.) COURT
20) [Rules of Bankruptcy Procedure,
21 FRAN YEGANEH, ET AL,) Rule 8001(e)]
22)
23 Defendants.)

24 The defendants in the above-entitled matter, hereby elect to have their appeal of
25 the Order denying "Defendants' cross motion for summary judgment" under Title 28 of
26 the United States Code, section 158(a), be heard by the United States District Court.

27 The names of all parties to this Order appealed from and the names, addresses,
28 and telephone numbers of their respective attorneys are as follows:

103A


1
2 1. Charles E. Sims, Trustee, represented by

3 Charles P. Maher, Esq.
4 Jeffrey Fillerup, Esq.
5 Luce, Forward, Hamilton & Scrips, LLP
6 121 Spear St., Suite 200
7 San Francisco, CA 94105
8 (415) 356-4600

9 2. Defendants Fran Yeganeh, et al, represented by

10 William E. Gilg
11 Attorney at Law
12 305 San Bruno Avenue West
13 San Bruno, CA 94066
14 (650) 871-8647

15 March 6, 2008

16 
17 WILLIAM E. GILG,
18 Attorney for Defendants/Appellants
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

I, the undersigned, state that I am a citizen of the United States and employed in the City of San Bruno, that I am over the age of eighteen (18) years and not a party to the within cause; that I am an active member of the State Bar of California; that my business address is 305 San Bruno Avenue West, San Bruno, California; and that on the date set out below I deposited a true copy of the attached documents, listed below, on the parties to the action by one or more of the following methods:

☒ First Class Mail

☐ Fax via (415) 356-4610

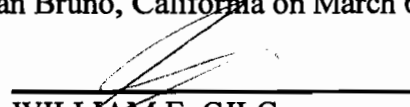
– by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at San Bruno, California;

Documents Served: ELECTION TO APPEAL DIRECTLY TO DISTRICT COURT

Party Served: CHARLES P. MAHER, ESQ.
Luce, Forward, Hamilton & Scripps, LLP
Rincon Center II, 121 Spear St., Suite 200
San Francisco, CA 94105

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.

Executed at San Bruno, California on March 6, 2008.



WILLIAM E. GILG,
Attorney for Appellants

PreAct, APPEAL

U.S. Bankruptcy Court
Northern District of California (San Francisco)
Adversary Proceeding #: 05-03243
Internal Use Only

Assigned to: Judge Thomas E. Carlson
Related BK Case: 05-30047
Related BK Title: Ramin Yeganeh
Related BK Chapter: 7
Demand:
Nature[s] of Suit: 454 Recover Money/Property

Date Filed: 02/18/05

E-filing
CV 08 1401

Plaintiff

Charles E. Sims

represented by Charles P. Maher

Luce, Forward, Hamilton and Scripps
121 Spear St. #200
San Francisco, CA 94105
(415) 356-4600
Email: cmaher@luce.com
LEAD ATTORNEY

JSW



Nhung Le
Luce, Forward, Hamilton and Scripps
121 Spear St. #200
San Francisco, CA 94105
(415) 356-4600
Email: nle@luce.com

V.

Defendant

Advanta Trust

Counter-Claimant

Advanta Trust

UNITED STATES BANKRUPTCY COURT

Northern District of California

I certify that this is a true, correct and full copy
of the original document on file in my custody.

Dated 3-1-08

by [Signature]
Deputy Clerk

represented by Jonathan G. Chance

JC Law Offices
2000 Broadway St.
Redwood City, CA 94063
(650) 299-1269
Email: jonathan@jc-law.net

V.

Counter-Defendant

Charles E. Sims

represented by Charles P. Maher

Luce, Forward, Hamilton and Scripps
121 Spear St. #200
San Francisco, CA 94105
(415) 356-4600
Email: cmaher@luce.com

Filing Date	#	Docket Text
02/18/2005	<u>1</u>	454 (Recover Money/Property): Complaint by Charles E. Sims against Advanta Trust Fee Amount \$150. (Attachments: # <u>1</u> AP Cover Sheet # <u>2</u> Order re Initial Disclosures and Discovery Conference [TO BE ISSUED BY CLERK]# <u>3</u> Summons [TO BE ISSUED BY CLERK]) (Maher, Charles) (Entered: 02/18/2005)
02/18/2005		Receipt of filing fee for Complaint(05-03243) [cmp,cmp] (150.00). Receipt number 1899776, amount \$ 150.00 (U.S. Treasury) (Entered: 02/18/2005)
02/23/2005	<u>2</u>	Summons Issued on Advanta Trust Answer Due 3/25/2005. Status Conference to be held on 4/21/2005 at 10:00 AM at San Francisco Courtroom 23 - Carlson. (dmb,) (Entered: 02/23/2005)
02/23/2005	<u>3</u>	Order Regarding Initial Disclosures and Discovery Conference . (dmb,) (Entered: 02/23/2005)
02/28/2005	<u>4</u>	Certificate of Service (RE: related document(s) <u>2</u> Summons Issued, <u>3</u> Discovery Order, <u>1</u> Complaint,). Filed by Plaintiff Charles E. Sims (Le, Nhung) (Entered: 02/28/2005)
03/25/2005	<u>6</u>	Motion to Dismiss Adversary Proceeding For Insufficiency of Service Of Process Filed By F. Yeganeh . (dmb,) (Entered: 04/01/2005)
03/25/2005	<u>7</u>	Notice of Hearing Filed by Defendant F. Yeganeh (RE: related document(s) <u>6</u> Motion to Dismiss Adversary Proceeding). Hearing scheduled for 4/29/2005 at 09:30 AM at San Francisco Courtroom 23 - Carlson. . (dmb,) (Entered: 04/01/2005)
03/29/2005	<u>5</u>	Alias Summons to be Issued on Advanta Trust (RE: related document(s) <u>1</u> Complaint, filed by Plaintiff Charles E. Sims). (Le, Nhung) (Entered: 03/29/2005)
04/01/2005	<u>8</u>	Alias Summons Issued on Advanta Trust Date Issued 4/1/2005, Answer Due 5/2/2005. Status Conference to be held on 6/23/2005 at 10:00 AM San Francisco Courtroom 23 - Carlson (dmb,) (Entered: 04/01/2005)
04/04/2005	<u>9</u>	Certificate of Service (RE: related document(s) <u>8</u> Alias Summons Issued, <u>3</u> Discovery Order, <u>1</u> Complaint,). Filed by Plaintiff Charles E. Sims (Le, Nhung) (Entered: 04/04/2005)
04/15/2005	<u>10</u>	Brief/Memorandum in Opposition to <i>Motion to Dismiss for Insufficiency of Process</i> (RE: related document(s) <u>6</u> Motion to Dismiss Adversary Proceeding). Filed by Plaintiff Charles E. Sims (Attachments: # <u>1</u> Declaration # <u>2</u> Certificate of Service) (Le, Nhung) (Entered: 04/15/2005)
04/22/2005	<u>11</u>	Order To Continue Hearing (RE: related document(s) <u>6</u> Motion to Dismiss Adversary Proceeding). Hearing to be held on 5/16/2005 at 9:30 AM San Francisco Courtroom 23 - Carlson for <u>6</u> , (dmb,) (Entered: 04/25/2005)
04/27/2005	<u>12</u>	BNC Certificate of Mailing - Electronic Order (RE: related document(s) <u>11</u> Order to Continued Hearing). Service Date 04/27/2005. (Admin.) (Entered: 04/27/2005)
04/29/2005	<u>13</u>	Motion to Dismiss Adversary Proceeding For Insufficiency Of Service Of Process . (dmb,) (Entered: 05/03/2005)
04/29/2005	<u>14</u>	Notice of Hearing (RE: related document(s) <u>13</u> Motion to Dismiss Adversary Proceeding). Hearing scheduled for 6/24/2005 at 09:30 AM at San Francisco Courtroom 23 - Carlson. . (dmb,) (Entered: 05/03/2005)
04/29/2005	<u>15</u>	Notice Regarding Taking Process Off Calendar (RE: related document(s) <u>6</u> Motion to Dismiss Adversary Proceeding). . (dmb,) (Entered: 05/03/2005)

05/04/2005	<u>16</u>	Ex Parte Motion to Expedite Hearing on <i>Defendant's Motion to Dismiss for Insufficiency of Service of Process</i> Filed by Plaintiff Charles E. Sims (RE: related document(s) <u>14</u> Notice of Hearing). (Attachments: # <u>1</u> Declaration # <u>2</u> Exhibit A-C to Declaration# <u>3</u> Certificate of Service) (Le, Nhung) (Entered: 05/04/2005)
05/06/2005	<u>17</u>	Objection To (RE: related document(s) <u>16</u> Ex Parte Motion to Expedite Hearing,). Filed By F. Yeganeh. (dmb,) (Entered: 05/11/2005)
05/11/2005	<u>18</u>	Brief/Memorandum in Opposition to <i>Motion to Dismiss for Insufficiency of Service of Process</i> (RE: related document(s) <u>13</u> Motion to Dismiss Adversary Proceeding). Filed by Plaintiff Charles E. Sims (Attachments: # <u>1</u> Declaration # <u>2</u> Exhibit A-D to Declaration# <u>3</u> Certificate of Service) (Le, Nhung) (Entered: 05/11/2005)
05/11/2005	<u>19</u>	Order Granting Motion To Expedite Hearing (Related Doc # <u>16</u>) Hearing scheduled for 5/16/2005 at 09:30 AM at San Francisco Courtroom 23 - Carlson. (dmb,) (Entered: 05/12/2005)
05/13/2005	<u>20</u>	Notice of Entry of Order Regarding: <i>Order Advancing Hearing on Motion to Dismiss for Insufficiency of Service of Process</i> (RE: related document(s) <u>19</u> Order on Motion to Expedite Hearing). Filed by Plaintiff Charles E. Sims. (Attachments: # (1) Certificate of Service) (Le, Nhung) (Entered: 05/13/2005)
05/13/2005	<u>21</u>	Stipulation, Entry of Order Extending Time to File Answer Filed by Plaintiff Charles E. Sims, Defendant Advanta Trust. (Attachments: # <u>1</u> Certificate of Service) (Le, Nhung) (Entered: 05/13/2005)
05/14/2005	<u>22</u>	BNC Certificate of Mailing - Electronic Order (RE: related document(s) <u>19</u> Order on Motion to Expedite Hearing). Service Date 05/14/2005. (Admin.) (Entered: 05/14/2005)
05/18/2005	<u>23</u>	Order Extending Time To File Answer (RE: related document(s) <u>21</u> Stipulation for Miscellaneous Relief filed by Plaintiff Charles E. Sims, Defendant Advanta Trust). (dmb,) (Entered: 05/19/2005)
05/21/2005	<u>24</u>	BNC Certificate of Mailing - Electronic Order (RE: related document(s) <u>23</u> Order). Service Date 05/21/2005. (Admin.) (Entered: 05/21/2005)
06/08/2005	<u>25</u>	Amended Complaint for <i>Avoidance and Recovery of Fraudulent Transfers</i> by Nhung Le on behalf of Charles E. Sims against all defendants. (RE: related document(s) <u>1</u> Complaint, filed by Plaintiff Charles E. Sims). (Attachments: # <u>1</u> Summons to be Issued Second Alias Summons [TO BE ISSUED BY CLERK]# <u>2</u> Order re Initial Disclosures and Discovery Conference [TO BE ISSUED BY CLERK]) (Le, Nhung) (Entered: 06/08/2005)
06/09/2005	<u>26</u>	Second Alias Summons Issued on Advanta Trust Date Issued 6/9/2005, Answer Due 7/11/2005. Status Conference to be held on 9/22/2005 at 10:00 AM San Francisco Courtroom 23 - Carlson (dmb,) (Entered: 06/09/2005)
06/09/2005	<u>27</u>	Answer to Complaint Filed by F. Yeganeh Trustee of Advanta Trust . (dmb,) (Entered: 06/13/2005)
06/09/2005	<u>28</u>	Counterclaim For Damages Filed by F. Yeganeh Trustee of Advanta Trust against Charles E. Sims (dmb,) (Entered: 06/13/2005)
06/17/2005	<u>29</u>	Order Regarding Initial Disclosures and Discovery Conference . (Referring To Second Alias Issued) (dmb,) (Entered: 06/17/2005)
06/17/2005	<u>30</u>	Certificate of Service (RE: related document(s) <u>25</u> Amended Complaint,, <u>26</u> Alias Summons Issued, <u>29</u> Discovery Order). Filed by Plaintiff Charles E. Sims (Le, Nhung) (Entered: 06/17/2005)

06/29/2005 31 Motion to Strike the Counterclaim of F. Yeganeh, Trustee of Advanta Trust; and Request for Attorney's Fees Filed by Plaintiff Charles E. Sims, Counter-Defendant Charles E. Sims. (Attachments: # 1 Memorandum in Support of Motion to Strike# 2 Declaration of Charles E. Sims in Support of Motion to Strike# 3 Exhibits A through C - Sims Declaration# 4 Declaration of Charles P. Maher in Support of Motion to Strike# 5 Exhibits A through G - Maher Declaration# 6 Declaration of Jeffrey L. Fillerup in Support of Motion to Strike# 7 Exhibit A - Fillerup Declaration# 8 Certificate of Service) (Maher, Charles) (Entered: 06/29/2005)

06/29/2005 32 Notice of Hearing on Motion to Strike the Counterclaim of F. Yeganeh, Trustee of Advanta Trust; and Request for Attorney's Fees (RE: related document(s)31 Motion Miscellaneous Relief,, filed by Counter-Defendant Charles E. Sims, Plaintiff Charles E. Sims). Hearing scheduled for 8/3/2005 at 09:30 AM at San Francisco Courtroom 23 - Carlson. Filed by Plaintiff Charles E. Sims, Counter-Defendant Charles E. Sims. (Maher, Charles) (Entered: 06/29/2005)

07/08/2005 33 Answer to First Amended Complaint Filed by Advanta Trust, and Farin Yeganeh et al . (dmb,) (Entered: 07/12/2005)

07/08/2005 34 Notice Of Dismissal Of (RE: related document(s)28 Counterclaim filed by Counter-Claimant Advanta Trust, Defendant Advanta Trust). Filed by Defendant Advanta Trust , Counter-Claimant Advanta Trust . (dmb,) (Entered: 07/12/2005)

07/20/2005 36 Response to (RE: related document(s)31 Motion Miscellaneous Relief, ,). Filed by Defendant Advanta Trust , Counter-Claimant Advanta Trust (dmb,) (Entered: 07/21/2005)

07/21/2005 35 Response to motion to strike, declaration of F. Yeganeh, proof of service (RE: related document(s)31 Motion Miscellaneous Relief,,). Filed by Counter-Claimant Advanta Trust (Chance, Jonathan) (Entered: 07/21/2005)

07/27/2005 37 Reply to : Reply Memorandum in Support of Motion to Strike Counterclaim; Request for Attorney's Fees (RE: related document(s)35 Response). Filed by Plaintiff Charles E. Sims, Counter-Defendant Charles E. Sims (Attachments: # 1 Supplemental Declaration of Jeffrey L. Fillerup in Support of Motion to Strike Counterclaim# 2 Certificate of Service) (Maher, Charles) (Entered: 07/27/2005)

08/03/2005 Hearing Held (matter is submitted). (RE: related document(s)31 Motion to Strike the Counterclaim of F. Yeganeh, Trustee of Advanta Trust; and Request for Attorney's Fees, 32 Notice of Hearing,). (gh,) (Entered: 08/03/2005)

08/03/2005 38 Order Granting Motion to strike and awarding attorney fees.(Related Doc # 31) (jjg,) (Entered: 08/04/2005)

08/06/2005 39 BNC Certificate of Mailing - Electronic Order (RE: related document(s)38 Order on Motion for Miscellaneous Relief). Service Date 08/06/2005. (Admin.) (Entered: 08/06/2005)

09/16/2005 40 Stipulation, STIPULATION REGARDING ATTORNEY'S FEES AWARD AND MOTION TO STRIKE ORDER Filed by Plaintiff Charles E. Sims, Defendant Advanta Trust (RE: related document(s)38 Order on Motion for Miscellaneous Relief). (Maher, Charles) (Entered: 09/16/2005)

09/21/2005 41 Order Regarding Attorney's Fees Award and Motion to Strike Order (RE: related document(s)31 Motion Miscellaneous Relief, , filed by Counter-Defendant Charles E. Sims, Plaintiff Charles E. Sims, 40 Stipulation for Miscellaneous Relief filed by Counter-Defendant Charles E. Sims, Plaintiff Charles E. Sims, Counter-Claimant Advanta Trust, Defendant Advanta Trust). (dmb,) (Entered: 09/21/2005)

09/22/2005 Hearing Continued (Trial also set for 5/2/06 at 9:30 AM). (RE: related document(s)26 Alias Summons Issued). Status Conference to be held on 11/18/2005 at 9:30 AM San Francisco Courtroom 23 - Carlson for 26, (gh,) (Entered: 09/23/2005)

09/23/2005	42	BNC Certificate of Mailing - Electronic Order (RE: related document(s) 41 Order,). Service Date 09/23/2005. (Admin.) (Entered: 09/23/2005)
10/07/2005	43	Scheduling Order . Discovery due by 4/3/2006. Trial date set for 5/2/2006 at 09:00 AM at San Francisco Courtroom 23 - Carlson. (dmb,) (Entered: 10/13/2005)
10/15/2005	44	BNC Certificate of Mailing - Electronic Order (RE: related document(s) 43 Scheduling Order). Service Date 10/15/2005. (Admin.) (Entered: 10/16/2005)
12/05/2005	45	Hearing Continued . (Status Conference continued to 2/24/05 at 9:30 AM). (gh,) (Entered: 12/05/2005)
12/08/2005	45	Certificate of Service (<i>Proposed Order Continuing Status Conference and Staying Discovery</i>) Filed by Plaintiff Charles E. Sims (Maher, Charles) (Entered: 12/08/2005)
12/16/2005	46	Order Continuing Status Conference and Staying Discovery (RE: related document(s) 43 Scheduling Order). (dmb,) (Entered: 12/19/2005)
02/17/2006	47	Status Conference Statement Filed by Plaintiff Charles E. Sims (Attachments: # 1 Certificate of Service) (Maher, Charles) Modified on 2/21/2006 ATTACHED PDF IS INCORRECT, SEE DOCUMENT #19 FOR CORRECT PDF (pl,). (Entered: 02/17/2006)
02/17/2006	48	Withdrawal of Documents <i>Docket No. 47 (wrong PDF file uploaded)</i> (RE: related document(s) 47 Status Conference Statement). Filed by Plaintiff Charles E. Sims (Maher, Charles) (Entered: 02/17/2006)
02/17/2006	49	Status Conference Statement Filed by Plaintiff Charles E. Sims (Attachments: # 1 Certificate of Service) (Maher, Charles) (Entered: 02/17/2006)
02/24/2006	50	Hearing Continued (Status Conference continued to March 31, 2006 at 10:30 AM). (RE: related document(s) Hearing Continued/Rescheduled (BK)). (gh,) (Entered: 02/27/2006)
04/11/2006	50	Motion to Extend Time <i>Until June 30, 2006 for the Filing of the Trustee's Motion to Compel Discovery From the Defendants and/or Debtor</i> Filed by Plaintiff Charles E. Sims. (Attachments: # 1 Memorandum of Points and Authorities # 2 Declaration # 3 Certificate of Service) (Le, Nhung) (Entered: 04/11/2006)
04/11/2006	51	Notice of Hearing <i>On Motion for Enlargement of Time Until June 30, 2006 for the Filing of the Trustee's Motion to Compel Discovery From the Defendants and/or Debtor</i> (RE: related document(s) 50 Motion to Extend Time <i>Until June 30, 2006 for the Filing of the Trustee's Motion to Compel Discovery From the Defendants and/or Debtor</i> Filed by Plaintiff Charles E. Sims. (Attachments: # 1 Memorandum of Points and Authorities # (2) Declaration # (3) Certificate of Service) (Le, Nhung)). Hearing scheduled for 6/2/2006 at 09:30 AM at San Francisco Courtroom 23 - Carlson. Filed by Plaintiff Charles E. Sims (Attachments: # 1 Certificate of Service) (Le, Nhung) (Entered: 04/11/2006)
05/18/2006	52	Notice of Continued Hearing <i>of Motion for Enlargement of Time Until June 30, 3006, for the Filing of the Trustee's Motion to Compel Discovery from the Defendants and/or Debtor and Amended Request</i> (RE: related document(s) 50 Motion to Extend Time, filed by Counter-Defendant Charles E. Sims, Plaintiff Charles E. Sims, 51 Notice of Hearing,, filed by Counter-Defendant Charles E. Sims, Plaintiff Charles E. Sims). Hearing to be held on 7/7/2006 at 9:30 AM San Francisco Courtroom 23 - Carlson for 50 , Filed by Plaintiff Charles E. Sims. (Attachments: # 1 Certificate of Service) (Le, Nhung) (Entered: 05/18/2006)
06/22/2006	53	Second Notice of Continued Hearing <i>on Motion For Enlargement Of Time Until June 30, 2006 For The Filing Of The Trustee's Motion To Compel Discovery From The Defendants And/Or Debtor And Amended Request</i> (RE: related document(s) 50 Motion to Extend Time, filed by Counter-Defendant Charles E. Sims, Plaintiff Charles E. Sims). Hearing to be held on 8/25/2006

at 9:30 AM San Francisco Courtroom 23 - Carlson for 50, Filed by Plaintiff Charles E. Sims. (Attachments: # 1 Certificate of Service) (Le, Nhung) (Entered: 06/22/2006)

- | | |
|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 08/21/2006 | <p>● <u>54</u> Notice of Continued Hearing of <i>Motion for Enlargement of Time Until June 30, 2006, for the Filing of the Trustee's Motion to Compel Discovery from the Defendants and/or Debtor and Amended Request</i> (RE: related document(s)<u>50</u> Motion to Extend Time, filed by Counter-Defendant Charles E. Sims, Plaintiff Charles E. Sims). Hearing to be held on 9/29/2006 at 9:30 AM San Francisco Courtroom 23 - Carlson for <u>50</u>, Filed by Plaintiff Charles E. Sims. (Attachments: # <u>1</u> Certificate of Service) (Le, Nhung) (Entered: 08/21/2006)</p> |
| 09/01/2006 | <p>● <u>55</u> <i>Motion to Preclude Testimony and Exclude Evidence or in the Alternative, Motion to Compel Discovery</i> Filed by Plaintiff Charles E. Sims. (Attachments: # <u>1</u> Memorandum in Support of the Trustee's Motion to Preclude Testimony and Exclude Evidence or in the Alternative, Motion to Compel Discovery# <u>2</u> Request for Judicial Notice# <u>3</u> Declaration of Emily L. Maxwell# <u>4</u> Declaration of Charles E. Sims# <u>5</u> Declaration of Jeffrey L. Fillerup# <u>6</u> Exhibits 92-106 of Jeff Fillerup Declaration# <u>7</u> Exhibits 107-116 of Jeffrey Fillerup Declaration# <u>8</u> Certificate of Service) (Maher, Charles) (Entered: 09/01/2006)</p> |
| 09/01/2006 | <p>● <u>56</u> Notice of Hearing on <i>Motion to Preclude Testimony and Exclude Evidence or in the Alternative, Motion to Compel Discovery</i> (RE: related document(s)<u>55</u> Motion Miscellaneous Relief,, filed by Counter-Defendant Charles E. Sims, Plaintiff Charles E. Sims). Hearing scheduled for 9/29/2006 at 09:30 AM at San Francisco Courtroom 23 - Carlson. Filed by Plaintiff Charles E. Sims. (Attachments: # <u>1</u> Certificate of Service) (Maher, Charles) (Entered: 09/01/2006)</p> |
| 09/01/2006 | <p>● <u>57</u> Motion for Summary Judgment <i>Based On Actual Fraud</i> Filed by Plaintiff Charles E. Sims. (Attachments: # <u>1</u> Memorandum of Points and Authorities # <u>2</u> Request for Judicial Notice# <u>3</u> Declaration of Emily L. Maxwell# <u>4</u> Declaration of Charles E. Sims# <u>5</u> Declaration of Jeffrey L. Fillerup# <u>6</u> Exhibit 92-106 to Declaration of Jeffrey L. Fillerup# <u>7</u> Exhibit 107-116 to Declaration of Jeffrey L. Fillerup# <u>8</u> Certificate of Service) (Le, Nhung) (Entered: 09/01/2006)</p> |
| 09/01/2006 | <p>● <u>58</u> Notice of Hearing on <i>Motion for Summary Judgment Based Upon Actual Fraud</i> (RE: related document(s)<u>57</u> Motion for Summary Judgment/Adjudication, filed by Counter-Defendant Charles E. Sims, Plaintiff Charles E. Sims). Hearing scheduled for 9/29/2006 at 09:30 AM at San Francisco Courtroom 23 - Carlson. Filed by Plaintiff Charles E. Sims. (Attachments: # <u>1</u> Certificate of Service) (Le, Nhung) (Entered: 09/01/2006)</p> |
| 09/01/2006 | <p>● <u>59</u> Notice Regarding <i>Lodgment of Documentary Evidence for Which Judicial Notice is Sought, and Other Deposition and Documentary Evidence in Support of (1) Motion for Summary Judgment Based on Actual Fraud, and (2) Motion to Preclude Testimony and Exclude Evidence or in the Alternative, Motion to Compel Discovery</i> (RE: related document(s)<u>57</u> Motion for Summary Judgment/Adjudication, filed by Counter-Defendant Charles E. Sims, Plaintiff Charles E. Sims, <u>55</u> Motion Miscellaneous Relief,, filed by Counter-Defendant Charles E. Sims, Plaintiff Charles E. Sims). Filed by Plaintiff Charles E. Sims. (Attachments: # <u>1</u> Exhibit 1-15# <u>2</u> Exhibit 16-29# <u>3</u> Exhibit 30-39# <u>4</u> Exhibit 40-42# <u>5</u> Exhibit 43-47# <u>6</u> Exhibit 48-49# <u>7</u> Exhibit 50-55# <u>8</u> Exhibit 56-65# <u>9</u> Exhibit 66-74# <u>10</u> Exhibit 75# <u>11</u> Exhibit 76-78# <u>12</u> Exhibit 79-90# <u>13</u> Exhibit 91# <u>14</u> Certificate of Service) (Le, Nhung) (Entered: 09/01/2006)</p> |
| 09/01/2006 | <p>● <u>60</u> Notice Regarding <i>Lodgment of Documentary Evidence (Part 1 - Exhibits 1-42) For Which Judicial Notice is Sought, and Other Deposition and Documentary Evidence in Support of (1) Motion for Summary Jugment Based on Actual Fraud, and (2) Motion to Preclude Testimony and Exclude Evidence or in the Alternative, Motion to Compel Discovery</i> (RE: related document(s)<u>57</u> Motion for Summary Judgment/Adjudication, filed by Counter-Defendant Charles E. Sims, Plaintiff Charles E. Sims, <u>55</u> Motion Miscellaneous Relief,, filed by Counter-Defendant Charles E. Sims, Plaintiff Charles E. Sims). Filed by Plaintiff Charles E. Sims. (Attachments: # <u>1</u> Exhibit 1-15# <u>2</u> Exhibit 16-29# <u>3</u> Exhibit 30-39# <u>4</u> Exhibit 40-42# <u>5</u> Certificate of Service) (Le, Nhung) (Entered: 09/01/2006)</p> |
| 09/01/2006 | <p>● <u>61</u> Notice Regarding <i>Lodgment of Documentary Evidence (Part 2 - Exhibits 43-91) For Which Judicial Notice is Sought, and Other Deposition and Documentary Evidence in Support of (1)</i></p> |

Motion for Summary Judgment Based on Actual Fraud, and (2) Motion to Preclude Testimony and Exclude Evidence or in the Alternative, Motion to Compel Discovery (RE: related document(s) 57 Motion for Summary Judgment/Adjudication, filed by Counter-Defendant Charles E. Sims, Plaintiff Charles E. Sims, 55 Motion Miscellaneous Relief,, filed by Counter-Defendant Charles E. Sims, Plaintiff Charles E. Sims). Filed by Plaintiff Charles E. Sims. (Attachments: # 1 Exhibit 43-47# 2 Exhibit 48-49# 3 Exhibit 50-55# 4 Exhibit 56-65# 5 Exhibit 66-74# 6 Exhibit 75# 7 Exhibit 76-78# 8 Exhibit 79-90# 9 Exhibit 91# 10 Certificate of Service) (Le, Nhung) (Entered: 09/01/2006)

- | | | |
|------------|-----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 09/12/2006 | <u>62</u> | Motion to Continue Hearing On (RE: related document(s) <u>57</u> Motion for Summary Judgment/Adjudication, filed by Counter-Defendant Charles E. Sims, Plaintiff Charles E. Sims) . Filed by Defendant Advanta Trust , Counter-Claimant Advanta Trust (gg,) (Entered: 09/15/2006) |
| 09/14/2006 | | Hearing Held . (Trustee's motion to preclude evidence will be heard on 10/6/06 at 9:30 AM and summary judgement motion is off calendar). (gh,) (Entered: 09/14/2006) |
| 09/15/2006 | <u>63</u> | Certificate of Service (RE: related document(s) <u>62</u> Motion to Continue/Reschedule Hearing,). Filed by Defendant Advanta Trust (gg,) (Entered: 09/15/2006) |
| 09/18/2006 | <u>64</u> | Notice of Continued Hearing <i>on Motion to Preclude Testimony and Exclude Evidence or in the Alternative, Motion to Compel Discovery</i> (RE: related document(s) <u>55</u> Motion Miscellaneous Relief,, filed by Counter-Defendant Charles E. Sims, Plaintiff Charles E. Sims). Hearing to be held on 10/6/2006 at 9:30 AM San Francisco Courtroom 23 - Carlson for <u>55</u> , Filed by Plaintiff Charles E. Sims. (Attachments: # <u>1</u> Certificate of Service) (Le, Nhung) (Entered: 09/18/2006) |
| 09/18/2006 | <u>65</u> | Fourth Notice of Continued Hearing <i>on Motion for Enlargement of Time Until June 30, 2006 for the Filing of the Trustee's Motion to Compel Discovery From the Defendants and/or Debtor and Amended Request</i> (RE: related document(s) <u>50</u> Motion to Extend Time, filed by Counter-Defendant Charles E. Sims, Plaintiff Charles E. Sims). Hearing to be held on 10/6/2006 at 9:30 AM San Francisco Courtroom 23 - Carlson for <u>50</u> , Filed by Plaintiff Charles E. Sims. (Attachments: # <u>1</u> Certificate of Service) (Le, Nhung) (Entered: 09/18/2006) |
| 09/22/2006 | <u>66</u> | Defendants' Notice of Motion and Motion to Preclude Testimony and Exclude Evidence, or in the Alternative, Motion to Compel Discovery filed by Defendant Advanta Trust . (gg,) (Entered: 09/28/2006) |
| 09/22/2006 | <u>67</u> | Opposition to Plaintiffs Motion to Preclude Testimony and Exclude Evidence, or Compel Additional Discovery (RE: related document(s) <u>55</u> Motion Miscellaneous Relief, ,). Filed by Defendant Advanta Trust (gg,) (Entered: 09/28/2006) |
| 09/22/2006 | <u>68</u> | Opposition to Plaintiffs Motion to Preclude Testimony and Exclude Evidence or Compel Additional Discovery. (RE: related document(s) <u>67</u> Opposition Brief/Memorandum). Filed by Defendant Advanta Trust (gg,) (Entered: 09/28/2006) |
| 09/22/2006 | <u>69</u> | Declaration Re Defendants Motion and Motion to Preclude Testimony and Exclude Evidence, or in the Alternative, Motion to Compel Discovery (RE: related document(s) <u>66</u> Motion Miscellaneous Relief). Filed by Defendant Advanta Trust (gg,) (Entered: 09/28/2006) |
| 09/22/2006 | <u>70</u> | Declaration of Debtor in Opposition to Plaintiffs Motion to Preclude Testimony and Exclude Evidence, or Compel Additional Discovery (RE: related document(s) <u>55</u> Motion Miscellaneous Relief, ,). Filed by Defendant Advanta Trust (gg,) (Entered: 09/28/2006) |
| 09/22/2006 | <u>71</u> | Declaration of Attorney Re Opposition to Plaintiff Motion to Preclude Testimony and Exclude Evidence, or Compel Additional Discovery (RE: related document(s) <u>55</u> Motion Miscellaneous Relief, ,). Filed by Defendant Advanta Trust (gg,) (Entered: 09/28/2006) |

09/28/2006	●	Hearing Set On (RE: related document(s) <u>66</u> Motion to Preclude Testimony and Exclude Evidence, or in the Alternative, Motion to Compel Discovery). Hearing scheduled for 10/6/2006 at 09:30 AM at San Francisco Courtroom 23 - Carlson. (gg,) (Entered: 09/28/2006)
09/29/2006	● <u>72</u>	Reply to <i>Opposition to Trustee's Motion to Preclude Testimony and Exclude Evidence or in the Alternative, Motion to Compel Discovery</i> (RE: related document(s) <u>67</u> Opposition Brief/Memorandum). Filed by Plaintiff Charles E. Sims (Attachments: # <u>1</u> Certificate of Service) (Maher, Charles) (Entered: 09/29/2006)
09/29/2006	● <u>73</u>	Brief/Memorandum in Opposition to <i>the Defendants' Motion To Preclude Testimony And Evidence, Or In The Alternative Motion To Compel</i> (RE: related document(s) <u>66</u> Motion Miscellaneous Relief). Filed by Plaintiff Charles E. Sims (Attachments: # <u>1</u> Declaration of Jeffrey L. Fillerup# <u>2</u> Exhibit 1-19 to Declaration of Jeffrey L. Fillerup# <u>3</u> Exhibit 20-26 to Declaration of Jeffrey L. Fillerup# <u>4</u> Certificate of Service) (Le, Nhung) (Entered: 09/29/2006)
10/02/2006	● <u>74</u>	Tentative Ruling: Motion to Preclude Testimony and Exclude Evidence or in the Alternative, Motion to Compel Discovery (Related Doc # <u>55</u>)(gg,) Modified on 10/3/2006 (gg,). Modified on 10/3/2006 (gg,). (Entered: 10/02/2006)
10/04/2006	● <u>75</u>	BNC Certificate of Mailing - Electronic Order (RE: related document(s) <u>74</u> Order on Motion for Miscellaneous Relief). Service Date 10/04/2006. (Admin.) (Entered: 10/04/2006)
10/10/2006	●	Courtroom Hearing Held (RE: Motion Miscellaneous Relief - related document(s) <u>66</u>) (Court order to follow.)(gh,) (Entered: 10/10/2006)
10/13/2006	● <u>76</u>	Order Re Cross Motions to Preclude or Compel (RE: related document(s) <u>55</u> Motion Miscellaneous Relief, , filed by Counter-Defendant Charles E. Sims, Plaintiff Charles E. Sims). (gg,) (Entered: 10/16/2006)
10/13/2006	●	Hearing Set On Motion. (RE: related document(s) <u>55</u> Motion Miscellaneous Relief, , filed by Counter-Defendant Charles E. Sims, Plaintiff Charles E. Sims). Hearing scheduled for 11/15/2006 at 09:30 AM at San Francisco Courtroom 23 - Carlson. (gg,) (Entered: 10/16/2006)
10/18/2006	● <u>77</u>	BNC Certificate of Mailing - Electronic Order (RE: related document(s) <u>76</u> Order). Service Date 10/18/2006. (Admin.) (Entered: 10/18/2006)
10/23/2006	● <u>78</u>	Notice of Appeal to District Court , Fee Amount \$ 255. (RE: related document(s) <u>76</u> Order). Appellant Designation due by 11/2/2006. Transmission to District Court due by 11/22/2006. Filed by Defendant Advanta Trust (gg,) (Entered: 10/24/2006)
10/23/2006	● <u>79</u>	Statement of Election to District Court, (RE: related document(s) <u>78</u> Notice of Appeal filed by Counter-Claimant Advanta Trust, Defendant Advanta Trust). Filed by Defendant Advanta Trust (gg,) (Entered: 10/24/2006)
10/24/2006	● <u>80</u>	Courts Certificate of Mailing. Number of notices mailed: 4 (RE: related document(s) <u>78</u> Notice of Appeal filed by Counter-Claimant Advanta Trust, Defendant Advanta Trust). (gg,) (Entered: 10/24/2006)
10/24/2006	● <u>81</u>	Transmittal of Record on Appeal to District Court (RE: related document(s) <u>78</u> Notice of Appeal). (gg,) (Entered: 10/24/2006)
10/30/2006	● <u>82</u>	Appellant Designation of Contents For Inclusion in Record On Appeal (RE: related document(s) <u>78</u> Notice of Appeal filed by Counter-Claimant Advanta Trust, Defendant Advanta Trust). Appellee designation due by 11/9/2006. Filed by Defendant Advanta Trust (gg,) (Entered: 10/31/2006)

11/01/2006	<u>83</u>	Brief/Memorandum in Opposition to <i>Defendants' Motion for Summary Judgment</i> Filed by Plaintiff Charles E. Sims (Attachments: # <u>1</u> Request for Judicial Notice# <u>2</u> Declaration of Andrea A. Wirum# <u>3</u> Declaration of Emily L. Maxwell# <u>4</u> Declaration of Renee Glover-Chantler# <u>5</u> Evidentiary Objections# <u>6</u> Certificate of Service) (Le, Nhung) (Entered: 11/01/2006)
11/07/2006	<u>84</u>	Appellee Designation of Contents for Inclusion in Record of Appeal (RE: related document(s) <u>78</u> Notice of Appeal filed by Counter-Claimant Advanta Trust, Defendant Advanta Trust). (Attachments: # <u>1</u> Certificate of Service) Filed by Plaintiff Charles E. Sims (Maher, Charles) (Entered: 11/07/2006)
11/09/2006	<u>91</u>	Notice of Filing of Bankruptcy Appeal and Order Setting Status Conference. United States District Court Case No. C-06-06782 MJJ. (RE: related document(s) <u>78</u> Notice of Appeal filed by Counter-Claimant Advanta Trust, Defendant Advanta Trust). Filed by Defendant Advanta Trust . (gg,) (Entered: 11/21/2006)
11/10/2006	<u>85</u>	Reply to <i>Defendants' Opposition to Plaintiff's Motion for Summary Judgment Based on Actual Fraud</i> Filed by Plaintiff Charles E. Sims (Attachments: # <u>1</u> Declaration of Emily L. Maxwell# <u>2</u> Declaration of Jeffrey L. Fillerup# <u>3</u> Declaration of Yosef Peretz# <u>4</u> Evidentiary Objections# <u>5</u> Certificate of Service) (Le, Nhung) (Entered: 11/10/2006)
11/13/2006	<u>86</u>	Supplemental Document <i>Supplemental Reply Memorandum in Support of the Trustee's Motion for Summary Judgment Based on Actual Fraud</i> in (RE: related document(s) <u>85</u> Reply,). Filed by Plaintiff Charles E. Sims (Attachments: # <u>1</u> Certificate of Service) (Le, Nhung) (Entered: 11/13/2006)
11/14/2006	<u>87</u>	Tentative Ruling on Cross Motions for Summary Judgment (RE: related document(s) <u>57</u> Motion for Summary Judgment/Adjudication, filed by Counter-Defendant Charles E. Sims, Plaintiff Charles E. Sims). (gg,) Modified on 11/15/2006 (gg,). (Entered: 11/14/2006)
11/15/2006	<u>55</u>	Courtroom Hearing Held (RE: Motion Miscellaneous Relief - related document(s) <u>55</u>) (submitted.)(gh,) (Entered: 11/15/2006)
11/16/2006	<u>88</u>	Certificate of Readiness Re: (RE: related document(s) <u>78</u> Notice of Appeal filed by Counter-Claimant Advanta Trust, Defendant Advanta Trust). (gg,) (Entered: 11/16/2006)
11/16/2006	<u>89</u>	Courts Certificate of Mailing. Number of notices mailed: 4 (RE: related document(s) <u>88</u> Certificate of Readiness). (gg,) (Entered: 11/16/2006)
11/16/2006	<u>90</u>	Transmittal of Appellee and Appellant Designation of Record on Appeal to District Court (RE: related document(s) <u>78</u> Notice of Appeal filed by Counter-Claimant Advanta Trust, Defendant Advanta Trust). (gg,) (Entered: 11/16/2006)
05/06/2007	<u>92</u>	Transcript, Date of Hearing: Nov. 15, 2006 <i>Trustee's motion for summary judgment</i> . (Palmer, Susan) (Entered: 05/06/2007)
05/29/2007	<u>93</u>	Notice of Status Conference to be held on 6/1/2007 at 10:30 AM at San Francisco Courtroom 23 - Carlson. Filed by Plaintiff Charles E. Sims. (Attachments: # <u>1</u> Certificate of Service) (Maher, Charles) (Entered: 05/29/2007)
06/01/2007	<u>93</u>	Courtroom Hearing Held (RE: Notice of Status Conference - related document(s) <u>93</u>) (gh,) (Entered: 06/01/2007)
07/02/2007	<u>94</u>	Transcript Re: Appeal <i>Motion to Preclude Testimony and Exclude Evidence or in the Alternative, Motion to Compel Discovery</i> (RE: related document(s) <u>78</u> Notice of Appeal). (McCall, Jo) (Entered: 07/02/2007)

09/25/2007	<u>95</u>	Notice of Status Conference to be held on 10/5/2007 at 09:30 AM at San Francisco Courtroom 23 - Carlson. Filed by Plaintiff Charles E. Sims. (Attachments: # <u>1</u> Certificate of Service) (Maher, Charles) (Entered: 09/25/2007)
09/28/2007	<u>96</u>	Amended Notice of Status Conference to be held on 10/9/2007 at 09:30 AM at San Francisco Courtroom 23 - Carlson. Filed by Plaintiff Charles E. Sims. (Attachments: # <u>1</u> Certificate of Service) (Maher, Charles) (Entered: 09/28/2007)
10/03/2007	<u>97</u>	Second Amended Notice of Status Conference to be held on 10/19/2007 at 09:30 AM at San Francisco Courtroom 23 - Carlson. Filed by Plaintiff Charles E. Sims. (Attachments: # <u>1</u> Certificate of Service) (Maher, Charles) (Entered: 10/03/2007)
10/19/2007	<u>97</u>	Courtroom Hearing Held (RE: Notice of Status Conference - related document(s) <u>97</u>) (Parties requested ruling be postpone until 11/9/07.)(gh,) (Entered: 10/19/2007)
11/12/2007	<u>98</u>	Document: <i>Report Regarding October 19, 2007 Status Conference..</i> Filed by Plaintiff Charles E. Sims (Maher, Charles) (Entered: 11/12/2007)
11/13/2007	<u>98</u>	**ERROR** Wrong Event Code Used. There is an Event Code for Report(RE: related document(s) <u>98</u> Document filed by Counter-Defendant Charles E. Sims, Plaintiff Charles E. Sims). (dc,) (Entered: 11/13/2007)
02/28/2008	<u>99</u>	Order RE Trustee's and Defendants' Cross Motions For Summary Judgment. (RE: related document(s) <u>57</u> Motion for Summary Judgment/Adjudication filed by Counter-Defendant Charles E. Sims, Plaintiff Charles E. Sims). (ac,) (Entered: 02/28/2008)
02/29/2008	<u>100</u>	Notice of Status Conference to be held on 3/7/2008 at 10:30 AM at San Francisco Courtroom 23 - Carlson. Filed by Plaintiff Charles E. Sims. (Attachments: # <u>1</u> Certificate of Service) (Maher, Charles) (Entered: 02/29/2008)
03/01/2008	<u>101</u>	BNC Certificate of Mailing - Electronic Order (RE: related document(s) <u>99</u> Order). Service Date 03/01/2008. (Admin.) (Entered: 03/01/2008)
03/06/2008		Receipt of Appeal Filing Fee. Amount 255.00 from F Yeganeh. Receipt Number 30044987. (cg) (Entered: 03/06/2008)
03/06/2008	<u>102</u>	Notice of Appeal to District Court , Fee Amount \$ 255. (RE: related document(s) <u>99</u> Order). Appellant Designation due by 3/17/2008. Transmission to District Court due by 4/7/2008. Filed by Defendant Advanta Trust (ac,) (Entered: 03/07/2008)
03/06/2008	<u>103</u>	Statement of Election to District Court, (RE: related document(s) <u>102</u> Notice of Appeal filed by Counter-Claimant Advanta Trust, Defendant Advanta Trust). Filed by Defendant Advanta Trust (ac,) (Entered: 03/07/2008)
03/07/2008	<u>100</u>	Courtroom Hearing Held (RE: Notice of Status Conference - related document(s) <u>100</u>) (Trial set for 6/3/08 at 9:30 AM, Pre Trial set for 5/2/08 at 11:00 AM. Court to do order.)(gh,) (Entered: 03/07/2008)
03/07/2008	<u>104</u>	Courts Certificate of Mailing. Number of notices mailed: 3 (RE: related document(s) <u>102</u> Notice of Appeal filed by Counter-Claimant Advanta Trust, Defendant Advanta Trust, <u>103</u> Statement of Election on Appeal filed by Counter-Claimant Advanta Trust, Defendant Advanta Trust). (ac,) (Entered: 03/07/2008)
03/07/2008	<u>105</u>	Transmittal of Record on Appeal to District Court (RE: related document(s) <u>102</u> Notice of Appeal filed by Counter-Claimant Advanta Trust, Defendant Advanta Trust). (ac,) (Entered: 03/07/2008)

Entered on Docket
February 28, 2008
GLORIA L. FRANKLIN, CLERK
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA



Signed and Filed: February 28, 2008

Thomas E. Carlson
E-filing THOMAS E. CARLSON
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 In re) Case No: 05-30047 TEC JSW
11 RAMIN YEGANEH,) Chapter 7
12)
13 Debtor.)
14 CHARLES E. SIMS, Trustee,) Adv. Proc. 05-3240 TC
15 Plaintiff,)
16 v.)
17 F. NAMDARAN aka FRAN NAMDARAN)
18 aka FARIN NAMDARAN aka FARIN)
19 YEGANEH aka FRAN YEGANEH,)
20 Defendant.)
21 CHARLES E. SIMS, Trustee,) Adv. Proc. 05-3242 TC
22 Plaintiff,)
23 v.)
24 COAST DEVELOPMENT TRUST and)
25 FARIN YEGANEH aka F. NAMDARAN aka)
26 FRAN NAMDARAN aka FARIN NAMDARAN)
27 aka FRAN YEGANEH,)
28 Defendants.)



UNITED STATES BANKRUPTCY COURT
Northern District of California

I certify that this is a true, correct and full copy
of the original document on file in my custody.

Dated 3-1-08
by Miss Chw-Wong
Deputy Clerk

ORDER RE CROSS MOTIONS
FOR SUMMARY JUDGMENT

- 1 -

1)
 2 CHARLES E. SIMS,) Adv. Proc. 05-3243 TC
 3)
 4 Plaintiff,)
 5)
 6 v.)
 7)
 8 ADVANTA TRUST and FARIN YEGANEH)
 9 aka F. NAMDARAN aka FRAN NAMDARAN)
 10 aka FARIN NAMDARAN aka FRAN)
 11 YEGANEH,)
 12)
 13 Defendants.)
 14)

15 **ORDER RE TRUSTEE'S AND DEFENDANTS'**
 16 **CROSS MOTIONS FOR SUMMARY JUDGMENT**

17 The court held a hearing on November 15, 2006 on Trustee's and
 18 Defendants' cross motions for summary judgment. Jeffery L. Fillerup
 19 and Nhung Le appeared for Trustee. Jonathan G. Chance appeared for
 20 Defendants.

21 Upon request of the parties, the court deferred ruling on the
 22 cross motions to allow the parties time to discuss settlement. On
 23 November 9, 2007, the parties informed the court that settlement
 24 efforts had failed, and requested that the court rule on the cross
 25 motions.

26 Upon due consideration, the court hereby orders as follows:

- 27 (1) Plaintiff's motion for summary judgment is denied.
 28 (2) Defendants' cross motion for summary judgment is denied.
 (3) For purposes of this order:

- (a) The "**San Mateo Properties**" means the following real
 property involved in the action against Coast Development
 Properties (A.P. No. 05-3242): (i) 627 Prospect Row, San
 Mateo, CA; (ii) 48 N. Grant St., San Mateo, CA; and (iii)
 718 E. 4th St., San Mateo, CA.

**ORDER RE CROSS MOTIONS
 FOR SUMMARY JUDGMENT**

-2-

- 1 (b) The "**East Bay Properties**" means the following real
2 property involved in the action against Advanta Trust
3 (A.P. No. 05-3243): (i) 6853 Simson St., Oakland, CA; and
4 (ii) 394 Sparling Drive, Hayward, CA.
- 5 (c) The "**Peninsula Properties**" means the following real
6 property involved in the action against Fran Namdaran
7 (A.P. No. 05-3240): (i) 1659 Linda Mar Blvd, Pacifica, CA;
8 (ii) 115 Francisco Dr., South San Francisco, CA; and (iii)
9 139 Francisco Drive, South San Francisco, CA.
- 10 (d) The "**Oakland Properties**" means the following real property
11 involved in the action against Allied Management Trust
12 (A.P. No. 05-3241): (i) 2462 Taylor Avenue, Oakland, CA;
13 (ii) 2300 Auseon Avenue, Oakland, CA; (iii) 1012 73rd
14 Avenue, Oakland, CA; (iv) 1278 79th Avenue, Oakland, CA;
15 and (v) 1086 69th Avenue, Oakland, CA.
- 16 (4) Plaintiff has established that the following material facts
17 exist without substantial controversy.
- 18 (a) Farin Namdaran and F. Namdaran are Debtor's mother.
- 19 (b) R. Rad is Debtor.
- 20 (c) Debtor's mother is the trustee and beneficiary of the
21 Coast Development Trust. There is no document evidencing
22 the creation of the Coast Development Trust.
- 23 (d) Debtor's mother is the trustee and beneficiary of the
24 Advanta Trust. There is no document evidencing the
25 creation of the Advanta Trust.
- 26 (e) Debtor is the trustee and beneficiary of the Allied
27 Management Trust.
- 28 (f) All of the facts set forth in the table below.

Date	Event
8/14/92	"Ramin Yeganeh, an unmarried man" takes title to the real property at 627 Prospect Row, San Mateo, CA, one of the three San Mateo Properties.
1/27/94	"Ramin Yeganeh, an unmarried man" takes title to the real property at 48 N. Grant St., San Mateo, CA, one of the three San Mateo Properties.
6/1/94	"Ramin Yeganeh, an unmarried man" takes title to the real property at 718 E. 4th St., San Mateo, CA, one of the three San Mateo Properties.
9/14/98	"Ramin Yeganeh, a single man" takes title to the real property at 6853 Simson St., Oakland, CA, one of the two East Bay Properties.
10/8/98	"Ramin Yeganeh, a single man" takes title to the real property at 394 Sparling Drive, Hayward, CA, one of the two East Bay Properties.
4/7/99	"Ramin Yeganeh, a single man" takes title to the real property at 1659 Linda Mar Blvd, Pacifica, CA, one of the three Peninsula Properties.
6/25/99	"Ramin Yeganeh, a single man" takes title to the real properties at 115 Francisco Dr., South San Francisco, CA and 139 Francisco Drive, South San Francisco, CA, two of the three Peninsula Properties.
1999	Debtor discards or destroys records regarding the San Mateo Properties, the East Bay Properties, and the Peninsula Properties. Debtor destroys or discards mortgage loan documents, property tax statements, lease agreements, evidence of lease payments received, records of improvements, repair invoices, property insurance statements, and utilities statements.
9/8/99	Debtor is arrested and his business records are seized; he is charged with violations of the criminal provisions of Cal. Civ. Code § 2945 re business practices of mortgage foreclosure consultants.
10/4/99	Wobogo files suit against Debtor under Cal. Bus. & Prof. Code § 17200 in San Mateo County Superior Court (Superior Court), Case No. 410586 (State-Court Action); 27 victims allege in the complaint that Debtor unlawfully foreclosed mortgages.
3/20/01	Debtor pleads no contest to four separate felony counts under Cal. Civ. Code § 2945.4(g), involving four victims. Debtor is sentenced to five years probation, his broker's license is suspended, and he is ordered not to engage in mortgage broker activity.

ORDER RE CROSS MOTIONS
FOR SUMMARY JUDGMENT

- 4 -

1	6/28/01	Debtor transfers the three Peninsula Properties to "F. Namdaran, a single woman" (Debtor's mother). No
2		consideration was paid for the transfers. A motion for
3		summary judgment was pending in the State-Court Action
4	7/30/01	on the date the Peninsula Properties were transferred.
5		
6	7/31/01	Superior Court grants plaintiffs' motion for summary
7		judgment, determining that Debtor violated Cal. Bus &
8		Prof. Code § 17200; restitution hearings commence.
9	8/1/01	Debtor transfers the three San Mateo Properties to the
10		Coast Development Trust (in which Debtor's mother is
11		the trustee and beneficiary). No consideration was
12		paid for the transfers.
13	8/2/01	Debtor files chapter 13 bankruptcy case; on petition,
14		Debtor uses an incomplete and inaccurate spelling of
15		his name and the wrong home address.
16	8/10/01	Debtor voluntarily dismisses his chapter 13 case.
17		
18	9/24/01	In State-Court Action, the plaintiffs file an
19		application for temporary restraining order to prohibit
20		Debtor from transferring any real property.
21		
22	10/3/01	Debtor transfers the East Bay Properties to the Advanta
23		Trust (in which Debtor's mother is the trustee and
24		beneficiary). No consideration was paid for the
25		transfers. After transferring these properties, Debtor
26		continues to collect the rental income from the
27		properties and does not turn over the rent to his
28		mother.
	4/18/02	The Superior Court grants an order modifying the
		preliminary injunction, which prohibits Debtor from
		conducting or engaging in certain real property
		transactions.
	June 2002	Debtor testifies under oath in the Superior Court:
		(i) that F. Namdaran was a man named "Fred" or a woman
		whose name he could not recall; and (ii) that R. Rad
		was Rick Rad, that his relationship with R. Rad was
		none.
	Sept. 2002	Under the name "R. Rad, a single man", Debtor acquires
		title to 2462 Taylor Avenue, Oakland, CA, one of the
		five Oakland Properties.
	Nov. 2002	Under the name "R. Rad, a single man", Debtor acquires
		title to 2300 Auseon Avenue, Oakland, CA (Auseon
		Property), one of the five Oakland Properties.

ORDER RE CROSS MOTIONS
FOR SUMMARY JUDGMENT

- 5 -

1 2	Dec. 2002	Under the name "R. Rad, a single man", Debtor acquires title to 1278 79th Avenue, Oakland, CA, one of the five Oakland Properties.
3 4	January 2003	Under the name "R. Rad, a single man", Debtor acquires title to 1086 69th Avenue, Oakland, CA, one of the five Oakland Properties.
5 6	3/21/03	R. Rad, who is Debtor, transfers all of the Oakland Properties, except the Auseon Property, to the Allied Management Trust, of which Debtor is the trustee and beneficiary.
7 8	5/6/03	R. Rad, who is Debtor, transfers the Auseon Property to the Allied Management Trust, of which Debtor is the trustee and beneficiary.
9 10 11	6/20/03	Superior Court finds Debtor guilty of contempt due to Debtor's transfer of the Oakland Properties in violation of the preliminary injunction. Superior Court sentences Debtor to 36 days in jail.
12	6/3/04	\$270K judgment entered in State-Court Action.
13 14	9/9/04	Supplemental judgment entered in the State-Court Action adding \$130K prejudgment interest, \$3,452,803 attorneys' fees, and \$32,458 costs to the judgment (collectively, the Judgment).
15 16 17 18	1/7/05	Debtor files chapter 13 bankruptcy case. Debtor is not eligible for chapter 13 relief because his debts, including the more than \$3.8 million Judgment, exceed the chapter 13 debt eligibility limits (as of the petition date: noncontingent, liquidated, unsecured debts of less than \$307,765 and noncontingent, liquidated, secured debts of less than \$922,975).
19	1/21/05	Debtor's bankruptcy case is converted to chapter 7 because Debtor is not eligible for chapter 13 relief.
20 21 22	2/22/05	Four days after the trustee filed adversary proceedings against Debtor to recover the San Mateo Properties, the East Bay Properties, the Peninsula Properties, and the Oakland Properties, Debtor transfers the San Mateo Properties to F. Namdaran (Debtor's mother).
23 24 25	2/25/05	Debtor files schedules in his bankruptcy case. Debtor does not list in his schedules any of the San Mateo Properties, the East Bay Properties, the Peninsula Properties, or the Oakland Properties.
26 27 28	6/1/05	Debtor testifies under oath at his 2004 examination that he doesn't remember why he didn't put his home address on the bankruptcy petition he filed in 2001, but that it may have been because he didn't want his credit affected.

ORDER RE CROSS MOTIONS
FOR SUMMARY JUDGMENT

- 6 -

(5) The following issues are reserved for trial, as limited by paragraph (6) below:

(a) whether Debtor retained other real or personal property after he transferred the San Mateo, East Bay, Peninsula, and Oakland Properties (collectively, the "**Properties**");

(b) whether Debtor was insolvent on the date the transfers were made or became insolvent as a result of the transfers; and

(c) whether Debtor made the transfers with actual intent to hinder, delay, or defraud creditors.

(6) Pursuant to this court's October 13, 2006 Order re Cross Motions to Preclude or Compel:

(a) Defendants are precluded from introducing any evidence that Defendants, rather than Debtor, were the true (equitable) owners of the Properties before the transfers at issue.

(b) Defendants are precluded from introducing any evidence that they paid Debtor consideration in connection with the transfers at issue.

(c) Except as provided in subparagraph (6)(d) below, Defendants are authorized to introduce Debtor's testimony and any documents already produced regarding: (i) whether the badges of fraud indicate intent to hinder, delay, or defraud creditors; and (ii) insolvency at the time of or as a result of the transfers at issue.

(d) In addressing the issues identified in subparagraph (6)(c) above, Defendants are precluded from introducing any evidence that Defendants rather than Debtor were the true

1 (equitable) owners of the Properties before the transfers
2 at issue or any evidence that Defendants paid any
3 consideration in connection with the transfers at issue.

4 ****END OF ORDER****
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER RE CROSS MOTIONS
FOR SUMMARY JUDGMENT

- 8 -

COURT SERVICE LIST

Jeffrey L. Fillerup, Esq.
Luce, Forward, Hamilton & Scripps LLP
121 Spear St., Ste. 200
San Francisco, CA 94105

Nhung Le, Esq.
Luce, Forward, Hamilton & Scripps LLP
121 Spear St., Ste. 200
San Francisco, CA 94105

Jonathan G. Chance, Esq.
JC Law Office
1605 Middlefield Rd.
Redwood City, CA 94063